



The Comptroller General
of the United States

Washington, D.C. 20548

Burkard

Decision

Matter of: A & D Machinery Company

File: B-234711

Date: June 15, 1989

DIGEST

Accessories of a milling machine required by the solicitation for the machine to meet operational and performance requirements of the solicitation may properly be considered in determining whether the cost of the components of the machine manufactured in the United States or Canada exceeds 50 percent of the cost of all its components.

DECISION

A & D Machinery Company protests the award of a contract to Foxco, Inc., under request for proposals (RFP) No. N00600-88-R-0770, issued by the Naval Regional Contracting Center, Washington D.C., for a milling machine. A & D contends that Foxco does not meet the RFP's requirement that the machine be manufactured in the United States or Canada and asserts that accessories of the machine should not have been considered in making that determination.

We deny the protest.

The RFP, which was issued on July 15, 1988, required the milling machine to be manufactured in the United States or Canada and contained a provision stating that a machine shall be considered manufactured in the United States or Canada if the cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components.^{1/} Accordingly, offerors were required

^{1/} Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 225-7008 (1988 ed.), governing the acquisition of machine tools, limits the Navy to purchasing domestic or Canadian milling machines as a result of restrictions on the acquisition of machine tools contained in various acts appropriating funds for the Department of Defense.

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to certify the percentage and dollar amount of foreign components contained in their machines. The RFP's specifications required a milling machine, including certain accessories, "necessary to meet the operational and performance requirements specified." The accessories were not listed as end items on the schedule but were to be delivered as part of the single end item, the milling machine. Award was to be made to the low technically acceptable offeror.

Four offerors submitted proposals in response to the RFP. In its offer, Foxco certified that the cost of foreign components represented only 38 percent of its total component cost, and thus, components comprising 62 percent of its component cost were manufactured in the United States or Canada. Following discussions and submissions of best and final offers, Foxco's offer was determined to be the lowest priced technically acceptable offer, and the Navy awarded the contract to Foxco on February 2, 1989. This protest followed.

A & D contends that Foxco's machine does not meet the 50 percent domestic content test, and that the Navy concluded otherwise because the Navy improperly permitted Foxco to certify the accessories as part of the milling machine's domestic components. A & D argues that, for purposes of the domestic content test, a milling machine should be evaluated independently of accessories. It asserts that milling machine accessories should not be included in the certification as components of the machine because there are separate federal supply classification (FSC) numbers to identify the milling machine and the accessories.

Initially, we note that we have recently rejected this identical argument in a similar protest. See Morey Machinery, Inc., B-233793, Apr. 18, 1989, 89-1 CPD ¶ 383. In that decision, we stated that despite the different FSC numbers, the agency, as here, was purchasing a milling machine with accessory parts which are deemed necessary for the unit to comply with agency needs. We therefore concluded that it would not be reasonable to exclude the cost of these parts in determining whether the milling machine is a domestic product. Id.

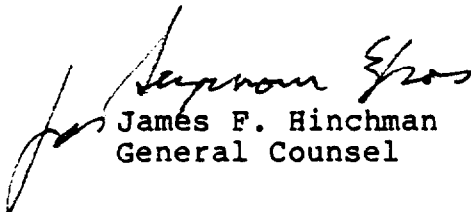
Although A & D disagrees with our decision in Morey Machinery, the record here supports our conclusion reached in that case. The certification here required that the cost of the machine's components manufactured in the United States or Canada exceed 50 percent of the cost of all its components. The issue, then, is whether an accessory is

properly considered a component of the machine for purposes of the domestic content test.

As stated above, the RFP states that "the equipment shall consist of [the] principal components, attachments and accessories necessary to meet the operational and performance requirements specified." Thus, the RFP treated principal components and accessories identically as integral elements of the end item. Further, the protester does not allege that a milling machine without the accessories would meet the agency's minimum needs. Rather, the record shows that a technically acceptable offer (meeting the agency's minimum needs) had to offer all accessories and that the agency was procuring a single end item, including accessories. Consequently, we again conclude that it would not be reasonable to exclude the cost of these accessories in determining whether the milling machine is a domestic item. The protester has failed to show otherwise.

In this regard, we also reject the protester's argument that accessories and the machine should be evaluated separately based on the distinct FSC numbers. We think that the need to categorize the accessories separately arises because an agency may choose to procure accessories independently of a machine. The separate FSC number only becomes applicable in such circumstances.

The protest is denied.


James F. Hinchman
General Counsel